



# **The EU as peacebuilder: a comparative analysis of civilian CSDP missions in Bosnia and Herzegovina and Kosovo**

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## Abstract

Promoting peace and security (both internal and external) was identified as a key priority of the 2016 European Union Global Strategy. Indeed, the EU has carved a name for itself in the realm of peacebuilding, primarily through Common Security and Defence Policy (CSDP) missions. These have been a major feature of the EU's foreign policy toolbox for almost two decades, with the aim of promoting EU norms and institutions while maintaining stability outside of its borders. Yet, despite over 30 missions to date, conflicts rage on, even in the EU's immediate neighborhood. Leaving the question, is CSDP capable of achieving the EU's peacebuilding goals?

Using a comparative framework, this paper evaluates how two major EU civilian CSDP missions, the European Union Police Mission in Bosnia and Herzegovina (EUPM Bosnia) and the European Union Rule of Law Mission in Kosovo (EULEX Kosovo), reflect the EU's role as a peacebuilder. Their success is evaluated in two ways, firstly through the immediate operational outcomes of the two missions, and secondly through an assessment of the long-term peacebuilding progress in Bosnia and Herzegovina and Kosovo, building upon Annemarie Peen Rodt's (2014) framework for evaluating CSDP success. International relations theory is also considered in explaining why these outcomes occurred as they did, and the suitability of the liberal peacebuilding model for peacebuilding in the Western Balkans is called into question. Ultimately, the thesis concludes that EUPM and EULEX were only partially successful in achieving the EU's peacebuilding aims, reflecting the EU's limited role as a peacebuilder.

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## List of Abbreviations

BiH .....	Bosnia and Herzegovina
CSDP .....	Common Security and Defence Policy
CFSP .....	Common Foreign and Security Policy
EEAS .....	European Union External Action Service
ESDP .....	European Security and Defence Policy
EU .....	European Union
EUGS.....	European Union Global Strategy
EUPM.....	European Union Police Mission in Bosnia and Herzegovina
EULEX .....	European Union Rule of Law Mission in Kosovo
MMA .....	Monitoring, Mentoring, Advising
OSCE .....	Organisation for Security and Cooperation in Europe
PESCO .....	Permanent Structured Cooperation
SAP .....	Stabilisation and Association Process
TEU .....	Treaty of the European Union
UN .....	United Nations
UNMIK.....	United Nations Interim Administration Mission in Kosovo
UNSCR .....	United Nations Security Council Resolution

## Chapter One: Introduction

The European Union (EU) perceives itself as an important player in global conflict management, however security remains one of the least integrated areas in the EU, despite efforts to promote greater institutionalisation of security and defence policy. The Global Strategy for the European Union's Foreign and Security Policy (EUGS) marked the EU's ambition to pursue "a practical and principled way in peacebuilding" and "become better equipped to build peace, guarantee security and protect human lives" (2016, p. 29-30). More recently, the ambitious Permanent Structured Cooperation on Security and Defence (PESCO) was formed in an attempt to further integrate defence spending and military operations. However, reaching a consensus on defence issues among the EU's 28 Member States continues to be a significant obstacle to effective foreign and security policy. Defence policy is still decided on a national level and the power lies with each member state to voluntarily contribute resources to EU actions, which has significantly hindered any significant military actions by the EU (Nugent, 2017). Member states have demonstrated a continued preference for taking major military action according to their national and bi-lateral interests rather than European consensus, as evidenced for example by the UK's unilateral decision to participate in the Invasion of Iraq in 2003, and the UK and France's involvement in the 2011 intervention in Libya. The EU has had more success in the civilian peacebuilding sphere which is the focus of this thesis.

Ever since the EU's perceived failure to prevent the Balkan conflicts in the 1990s, the EU has been eager to demonstrate a more unified and coordinated response to security issues, and has made significant reforms to its Common Foreign and Security Policy (CFSP). In 2003, the EU launched its first Common Security and Defence Policy (CSDP) mission (EUPM Bosnia), under a common European Security Strategy. The Common Security and Defence Policy (CSDP) is an integral part of CFSP, encompassing the EU's international peacekeeping and conflict management actions through military and civilian missions. As of 2018, there have been 34 CSDP missions, 11 of which were military, 22 civilian and one mixed. This thesis will explore the operational and wider peacebuilding outcomes of two key ones: the European Union Police Mission (EUPM) in Bosnia and Herzegovina and the European Union Rule of Law Mission (EULEX) in Kosovo. Both missions

take place in the Western Balkans, a region where the EU has focused much of its peacebuilding efforts and hence should give a good indication of the EU's capability as a peacebuilder. This thesis aims to go beyond the immediate operational objectives of the missions to include an analysis of the appropriateness of CSDP as a tool to achieving the EU's aim of promoting long-term peacebuilding in Kosovo and BiH, using the theoretical framework established in Chapter 2.4. This introduction will first give contextual background, situating the missions in the context of the EU's foreign and security policy institutions, the conflicts in Bosnia and Herzegovina and Kosovo, and the EU's wider Western Balkans strategy, before providing an overview of the research design and questions guiding this thesis.

## **1.1. Contextual Background**

### **1.1.1. European Foreign and Security Policy**

The foundation of the European Union is, at heart, a peace project. Following the horrors of World War II, the founding fathers of Europe had a dream, what Winston Churchill called a "United States of Europe", that the economies and societies of the European nations would become so integrated that conflict would become unthinkable. To that end, the EU has been a success. It is true that no EU member states have gone to war with each other, and for this the EU was even granted the Nobel Peace Prize in 2012. But where does that leave the outsiders looking in — those countries just outside its borders and further afield where conflict has raged on? Does the EU have influence on external conflicts, and can it have meaningful foreign and security policy? At the first real test, Europe was largely seen to have failed: the EU was not able to prevent the outbreak of war after the dissolution of Yugoslavia, resulting in some of the deadliest conflicts on European soil since WWII (Juncos 2013, p. 1). The dissolution of the Socialist Federal Republic of Yugoslavia was a wake-up call to the European Union that economic instruments were insufficient tools in achieving the EU's diplomatic aims, and it would need to branch out into military and civilian missions (Ginsberg and Penska 2012, p. 18-19).

Foreign and security policy is an area that the EU has in recent years attempted to develop but appears to be one of the hardest to integrate and is not yet fully institutionalised. It was not until



the Treaty on European Union (TEU), also known as the Treaty of Maastricht (signed on 7 February 1992 and in force since November 1993) that an attempt was made to institutionalise and integrate foreign policy across the member states. The Common Foreign and Security Policy (CFSP) was launched as one of the three pillars of the European Union (the other two being the European Communities and Justice and Home Affairs). The CFSP pillar was intended as a way to assert the EU's "identity on the international scene", and was intended to eventually lead to a common defence policy "which might in time lead to a common defence" (Treaty, Article B, p. 8).

The 1998 St Malo summit gave impetus for more rapid institutionalization of EU security and defence policy, such as creating the CSDP bodies Political Security Committee, and European Union Military Staff well as a European Defence Agency, the Civilian Planning and Conduct Capability (CPCC) and the Crisis Management and Planning Directorate (CMPD) and other institutions (Juncos, 2013, p. 126). The institutionalisation of CSDP and the creation of permanent and centralized committees made it easier for diplomats to meet and focus on specific issues regarding CFSP (Ibid). Juncos notes that this was more conducive to a "consensus atmosphere" and efficiency (Ibid). This institutionalisation would intensify following the 2009 Lisbon Treaty with the creation of the EEAS and position for a High Representative for Foreign Affairs and Security Policy (Ibid). The 2009 Lisbon Treaty affirmed a commitment to EU Common Foreign and Security Policy based on mutual political solidarity, and established the EU External Action Service as well as the High Representative of the Union for Foreign Affairs and Security Policy (Nugent, 2017). In 2003, the EU launched its first Common Security and Defence Policy (CSDP) mission in Bosnia and Herzegovina (then known as the European Security and Defence Policy — ESDP), under a common European Security Strategy. Currently, there are 11 active CSDP missions (EEAS 2018).

### **1.1.2. Bosnia and Herzegovina**

The Bosnian War, which began in 1992, was part of the breakup of Yugoslavia. The three major ethnic groups in what was then the Yugoslav constitutive 'Socialist Republic' of Bosnia and Herzegovina ((referred to as BiH for the rest of this thesis), Bosnian Serbs, Bosnian Croats and

Bosniaks (or Bosnian Muslims), were divided on how to split the territory. While Bosniaks mainly wanted an independent Bosnian state, Bosnian Serbs wanted to remain part of a larger Serbia or have their own ethnic territory, and Bosnian Croats likewise wanted their own ethnic territory (Woodward, 1995; Cohen, 1995). Following a referendum on 29 February and 1 March 1992 which Bosnian Serbs largely boycotted, tensions escalated and broke out into a conflict which would last over three and a half years. The conflict concluded with the signing of the General Framework Agreement for Peace in Bosnia and Herzegovina (also known as the Dayton Agreement) on 14 December 1995 (GFA, 1995). Notably, it was the US, not the EU, that played a decisive role in preparing the agreement and persuading the parties to come together, particularly through the efforts of Richard Holbrooke, Assistant secretary of State for European and Canadian Affairs (Crampton 2002, p. 266-268). However, representatives of the Contact Group nations (USA, UK, France, Germany, Italy and Russia) as well as the EU Special Negotiator, signed the agreement as witnesses. The Dayton Agreement established Bosnia and Herzegovina as a country with a complicated confederative constitutional order made up of two entities: the Serbian Republic (Republika Srpska) and the Federation of Bosnia and Herzegovina (Federacija Bosne i Hercegovine), and three governments (those of the two entities, and one limited central government) which can hardly function without international supervision (Knaus and Cox, 2004). This thesis will not analyse the events during this conflict, but rather will evaluate the effects of EU CSDP on police reform and related areas.

### 1.1.3 Kosovo

The Kosovo War (February 1998 - June 1999), was also a conflict with roots in ethnic divisions. Kosovo is a territory with a majority Albanian population, located in the south of present day Serbia (which has a majority ethnic Serbian population). Its state-hood status is currently still under dispute. In response to increasingly repressive policies against the ethnic Albanian majority in Kosovo in the 1990s, primarily led by then president of the Federal Republic of Yugoslavia, Slobodan Milošević, the Kosovo Liberation Army (KLA) rose up in armed rebellion in 1998 (Crampton 2002, Chap. 15; Ker-Lindsay 2009, Chap. 1). After a year of brutal conflict and failed attempts at a diplomatic solution, the war decisively came to an end in June 1999, after military

intervention by NATO, which launched a bombing campaign in Serbia and Montenegro (at the time one country – the Federal Republic of Yugoslavia). The UN Security Council adopted Resolution 1244 which put the territory of Kosovo (which officially remained part of Serbia) under an international military and civil protectorate (UNSC, 1999). This gave NATO the power to oversee most security tasks, while the UN Mission, UNMIK, had administrative oversight (Chivvis, 2010, p. 32). The European Union Rule of Law Mission in Kosovo (EULEX) was originally intended to replace UNMIK altogether, and would have been a "status-committed mission", not neutral-oriented, meaning it would work toward building and strengthening state institutions in line with Kosovo's expected independence (Greicevci, 2011, p. 289-290). However, the UN Security Council could not come to an agreement on the Comprehensive Proposal for the Kosovo Status Settlement (CSP) (Ahtisaari plan), a settlement proposal submitted by UN Special Envoy Martti Ahtisaar in 2007, that would end the UNMIK mission and recognise Kosovo's independence. Serbia objected strongly to ceding sovereignty to Kosovo, and Russia vetoed the resolution in support. Five EU member states also did not accept Kosovo's independence (Cyprus, Spain, Romania, Slovakia and Greece), while the other 22 did, meaning the EU could not reach a consensus regarding Kosovo's status. The Resolution's failure to pass meant that the EU CSDP mission had to continue under the authority of the UN Mission, but, as explained better in chapter four, confusion remains over how to reconcile the mission's initial purpose to build state institutions for a territory that is not officially recognised as a nation state.

#### **1.1.4. Western Balkans Strategy**

As soon as the Bosnian War concluded via the Dayton Agreement, EU political leaders decided to offer BiH and the other former Yugoslav states (excluding Slovenia), prospects for more intensive cooperation with the EU, in order to further stabilize and secure peace in the region. Hence, the EU launched what would later be named "a coherent strategy for the Western Balkans", which aimed to promote "democracy, the rule of law, higher standards of human and minority rights, transformation toward market economies and greater cooperation between those countries" (EU General Affairs Council, 1997; Pipan, 2004). The "coherent strategy" was formally initiated in April 1997 and evolved into into a "new kind of contractual relationship... with a perspective of

EU membership” (EU General Affairs Council, 17 May 1999, p. 1). This was further defined through the comprehensive “Stabilisation and Association Process” (SAP), which remains the cornerstone of the EU’s strategy in the Western Balkans (European Commission 1999; Juncos 2013). The ‘EU membership perspective’ for the Western Balkan states had been reconfirmed to be at the heart of the strategy at European Council meetings held in the early 2000s and especially by the adoption of the ‘Thessaloniki Agenda’ in June 2003 which stated that the Balkans would become “an integral part of a united Europe” (EU General Affairs and External Relations Council, 2003, paragraph, 2). In 2006, the European Council reaffirmed that “the future of the Western Balkans lies in the European Union” (EC). The Thessaloniki agenda also specifically cited the launching of EUPM in BiH as “tangible proof of the Union’s commitment to the Western Balkans”, demonstrating that CSDP is closely linked with the EU’s wider strategy in the Balkans (EU General Affairs and External Relations Council 2003, p. 12).

In order to gain EU membership, the candidate countries must meet a number of criteria, including establishing stable rule of law institutions in line with European standards. Not surprisingly, BiH and Kosovo, the Western Balkan states with the highest level of internal political instability and problems (some of which will be explained in chapters four and five of this thesis) are on the bottom of the list of potential aspirants for EU membership in the region. While BiH was able to submit its application for membership in February 2016 (European Commission 2019c), it is still very far from getting official candidate status. Kosovo, primarily due to its contested statehood status (but also to its problematic democratic record and instability in institutions) has not even been allowed to submit an application for EU membership. For the Balkans, eventual EU membership has been the carrot dangling at the end of CSDP. Javier Solana, former EU High Representative for CFSP stated that EUPM was always about a transition “from crisis to EU membership” (Solana in EISS report, p. 4). In other words, by stabilizing peace and implementing EU led rule of law reforms, BiH hoped it would eventually be able to enter the EU fold (and the economic benefits that entails). Likewise, through EULEX, Kosovo could aspire to be assisted one day to meeting the accession criteria to join the EU.

## **1.2. Research Design**

### **1.2.1. Aims and structure**

The primary goal of this research is to use a comparative framework to investigate how two major civilian CSDP missions, EUPM Bosnia and Herzegovina and EULEX Kosovos, reflect the EU's role as an international "peacebuilder", including its motivations for intervention, and the processes and outcomes of the missions themselves for long-term peace and institution building. Both EUPM BiH and EULEX Kosovo have a strong focus on rule of law and institution building, and take place in the Western Balkans, a region where peacebuilding is particularly important to the EU.

This chapter introduces the contextual background and methodological framework which forms the basis of the thesis. Chapter Two provides an overview of the literature on CSDP and select international relations theories as applied to the EU (primarily realism and constructivism), as well as Rodt's model of evaluating effectiveness which forms the theoretical framework of this work. In chapters three and four, the goals, operationalisation and technical success of the two missions will be evaluated using Rodt's model, and compared to the EU's long-term peacebuilding aims and outcomes in BiH and Kosovo. Finally, in chapter five, a discussion of the findings will be presented from a comparative perspective, and international relations theories will then be applied in making an assessment of how these missions have advanced the EU's wider strategy and actorness as a "peacebuilder". This thesis seeks to build upon the existing CSDP research by bringing a more comprehensive, comparative and theoretically-based analysis of the broader peacebuilding outcomes of EUPM and EULEX. This thesis also makes a theoretical contribution by slightly modifying Rodt's analytical framework for evaluating the success of military CSDP missions, to apply more appropriately to civilian CSDP missions (see chapter 2.4), which could be used in further analysis of civilian CSDP missions.

### **1.2.2. Research Question**

The main research question guiding this paper is how do civilian CSDP mission in Bosnia and Herzegovina and Kosovo reflect on the EU's role as an international "peacebuilder". To answer this question necessitates answering two sub-questions: how successful have EUPM BiH and

EULEX Kosovo been in achieving their mandates? Secondly, how successful have these missions been in promoting long-term peacebuilding in the Western Balkans? The success of the two missions is a good indicator of the significance and effectiveness of the EU's international role as a peacebuilder because the CSDP is the EU's primary peacebuilding tool, and the Western Balkans has been identified as a region of high priority to the EU's peacebuilding efforts.

### 1.2.3. Methodology

This research will rely on a comparative analytical framework, primarily using a qualitative approach. The thesis will compare decision-making, processes, and outcomes in two case studies: EULEX Kosovo and EUPM Bosnia and Herzegovina. These cases were chosen for easy comparison as they are typical, like cases, both being major CSDP missions in the Western Balkans. They are fairly significant civilian CSDP missions because they take place in the EU's immediate neighbourhood and have had a significant amount of resources and political will invested into them; EUPM BiH was the first and longest running civilian CSDP mission while EULEX Kosovo has had the largest budget. As such, the success or failure of EU CSDP in the Western Balkans reflects more broadly on the EU's ability to play a major role as an international peacebuilding actor. Furthermore, as EUPM BiH was the EU's first civilian CSDP mission, and EULEX Kosovo was launched five years later, a comparison between the two allows reflection on whether the EU took on board the lessons learned from the first mission, and how CSDP has progressed over the years. This research will apply Annemarie Peen Rodt's (2014) analytical framework for evaluating the success of CSDP missions to analyse the outcomes of the two case studies in meeting their mandates and intended objectives (see chapter two for an explanation of this theory). In the findings chapter, an international relations theoretical lens will be used to explain some of the outcomes of the missions in the context of the EU's overall (liberal) peacebuilding strategy.

Research will primarily be gained from qualitative analysis of documents such as EU legislation, policy briefs, press statements and official reports, as well as analysis of other academic sources. Content analysis will be used to explore in depth the mandates and policy rationales behind each of the CSDP missions, their nature, the scale of each operation, perceived legitimacy, and their relative levels of success in achieving their objectives and wider institution building. This will be

complemented by some quantitative analysis of statistics and indexes (such as international indicators for democracy and corruption levels), in order to analyse the long-term institutional development and peacebuilding outcomes in Bosnia and Herzegovina and Kosovo. This will give an overall indication not only of the CSDP missions' short-term outcomes, but whether civilian CSDP missions are a sufficient tool to be able to adequately meet the EU's long-term peacebuilding aims in the region.

#### **1.2.4. Limitations**

Limitations of this work include the limited sample size of only two case studies. Choosing cases in the Western Balkans allowed for easier comparison, but they are not necessarily demonstrative of wider CSDP missions. BiH and Kosovo are both located in Europe and have aspirations for future EU membership, so while the CSDP missions do take place in an external region, they are much more closely tied to the EU than CSDP missions on other continent, and are complemented by a wider Eastern enlargement strategy which is not analysed in depth in this research. Furthermore, there are other international actors involved in the peacebuilding process in BiH and Kosovo, whose actions are beyond the scope of this research. Future research could take a larger sample number of case studies, and could also include not just civilian CSDP missions but also military CSDP missions.

## **Chapter Two: Literature Review and Theoretical Framework**

The European Union has a unique role to play in global conflict management, but achieving a truly "common" foreign and security policy in times of crisis continues to be a challenge. Reaching a consensus on defence among 28 Member States is a difficult task at the best of times, but is especially challenging when attempting to achieve effective defence policy (Nugent, 2017). Each EU member state has sovereignty over its defence policy and may decide to contribute military resources to EU actions on a voluntary basis, and partially for this reason, there has been a greater emphasis on civilian as opposed to military interventions. Ever since the EU's perceived failure to prevent the Balkan conflicts in the 1990s, the EU has been eager to demonstrate a more unified and coordinated response to security issues, primarily through a "peacebuilding framework" (Richmond et al, 2011). This literature review aims to provide an overview of

international relations and peacebuilding theories, a general overview of European foreign policy and the literature on civilian CSDP missions in Kosovo and Bosnia and Herzegovina, as well as where this fits into the EU's overall "peacebuilding" strategy.

## 2.1. Peacebuilding in EU Foreign Policy

Martina Spornbauer defines peacebuilding as an attempt "to consolidate peace and ensure its sustainability in a country or territory emerging from a war or violent conflict" (2014, p. 3). According to Spornbauer, peacebuilding must be understood as a multi-faceted strategy; security goes hand in hand with the rule of law and development in post-conflict societies (2014). Oliver Richmond et al. argue that the EU's institutional and policy developments have demonstrated an "emerging peacebuilding framework" which takes the lead from the UN's liberal peacebuilding model, which includes institution building, democratisation and an emphasis on concepts such as 'responsibility to protect', 'sustainable peace', and 'human security' (2011, p. 450-452). The liberal peace approach is based on ideas such as democratic peace theory and liberal institutionalism, which posit that democratic countries with similar institutions are less likely to go to war with one another (Oliver Richmond et al., 2011). A liberal peace approach to peacebuilding can include promoting liberal-market-oriented states, establishing democratic institutions and reforming governance frameworks, and creating a broader regional peace framework through institutionalism (Oliver Richmond et al, 2011).

EU civilian CSDP missions are a key tool in the EU's peacebuilding process. A significant goal of the CSDP has been to improve institution and capacity building in post-conflict states so as to ensure long-term peace and stabilization, a key component of peacebuilding (Spornbauer, 2014, p. 2-3). The Treaty of Lisbon made this more explicit, identifying "peace-making and post-conflict stabilisation" as one of the EU's foreign policy tasks, as are "military advice and assistance tasks, conflict prevention and peace-keeping", which the EU may use "civilian and military means" to achieve (2009, Article 28 B). The rhetoric around peacebuilding has amped up in recent years. The European External Action Service has said that "peace building and conflict prevention are at the heart of EEAS action" and has even established a "Conflict prevention, Peace building and Mediation Instruments Division" (EEAS, 2017). In the Foreword



to the Global Strategy for the European Union's Foreign and Security Policy, Mogherini emphasises that "global" also refers to "peace-building and the resilience of States and societies, in and around Europe" (EUGS 2016, p. 4). The Global Strategy highlights an "integrated approach to conflicts" as a priority of the EU's external action, promising that the EU will engage in a "practical and principled way in peacebuilding, and foster human security through an integrated approach" and will invest in stabilisation (2016, p. 9). Furthermore, the EU Commission's communication "A credible enlargement perspective for and enhanced EU engagement with the Western Balkans", emphasises that long-term peace in this region is a key priority to the EU (2018). While the Western Balkans strategy does not specifically reference "peacebuilding" it does state "further efforts towards reconciliation are crucial to firmly anchor peace and ensure lasting stability in the region", and makes peace a prerequisite condition of accession to the EU (2018, p. 6-7). A common conclusion by CSDP analysis is that reaching a consensus remains a significant obstacle to efficient missions, and it is unlikely that this problem will disappear soon. Monica Opriou (2015) for example, in analysing European Union Monitoring Mission (EUMM) in Georgia notes that early consensus on launching EUMM made it the fastest deployed CSDP mission. However, as unity waned later on, the EU was not capable of reacting to developments such as Russia's failure to withdraw from Georgian territory by the deadline set in the Implementation Agreement or its recognition of Abkhazia and South Ossetia's independence. In fact, similarly to the lack of consensus around Kosovo's state-hood status leading up to EULEX Kosovo, the member states' different attitudes towards Russia delayed engagement of this mission (Opriou 2015).

Police missions have played an important role in EU external peacebuilding, comprising the most common type of civilian CSDP mission launched by the EU (a total of eight police missions to date). The United Nations was the first international organization to identify policing as a crucial part of democracy and peace promotion in post-conflict states (Merlingen, 2006). In the 1990s a number of policing missions proliferated such as the UN Civilian Police (Civpol) Mission in Haiti and the UN Police Support Group in Eastern Slavonia. The Organisation for Security and Cooperation in Europe (OSCE) soon followed suit and was the international leader in police aid

until the EU took over in 2003 (Meling, 2006). In the wake of this activity many scholars agreed that there was a link between security sector reforms and “the entrenchment of liberal peace” in post-conflict states (Meling 2006, p. 18).

Establishing security and reliable police institutions are crucial for long-term peace and other kinds of development, hence this has been a priority of the EU’s international interventions. In the Global Strategy, the European Union emphasised that peace and security is a prerequisite for economic development (EUGS, 2016; Spornbauer, 2014). Meling notes that “only a democratic, human-rights oriented police is capable of securing the lives and property of citizens, independent of their ethnic, economic or social profile” (2006, p. 18). This is because a democracy should theoretically hold the police accountable to the public, avoiding systemic police brutality, which erodes order and damages trust in public institutions (Ibid, p. 19). Furthermore, as Wolff states, “Security is not only a crucial precondition for the success of state building but it is also linked to it through the notion of legitimacy” (2011, p. 1779). The police, alongside the military, grant the state its monopoly on force and thereby its legitimacy. A significant example of a failed post-conflict transition due to poor security institutions can be seen in post-Arab Spring Libya (notably, the European Union did not get significantly involved in this conflict, and only sent a border-assistance mission rather than a policing or rule of law mission). Christopher and Martini note that the escalation of violence in Libya after the 2011 revolution “was a direct consequence of the weakness of the Libyan state” (2014, p. 42). Security is therefore a crucial precondition for long-term peace and stability, and arguably, the norms included in the “liberal peace” are necessary for successful policing institutions.

Several publications have examined EU policing missions, with special focus on the largest to date: EUPOL Afghanistan, EUPM Bosnia and EULEX Kosovo (which is a rule of law mission but has significant policing aspects). Juncos (2013) gives an overview of EU foreign and security policy and CSDP missions in Bosnia. Juncos examines whether the growing institutionalisation of EU foreign and security policy has an effect on the levels of its coherence and effectiveness, and finds that it has had mixed results. Meling and Ostrauskaite (2006) provide an in-depth empirical investigation of two EU policing missions, EUPM in Bosnia, and EUPOL Proxima in

Macedonia, as well as an overview of peace-building theory. They argue that the ESDP police missions are part of a “global civilizing process” that seeks to achieve liberal peace in post-conflict states (2006). While the authors suggest a greater reciprocal relationship with locals should be pursued to improve the effectiveness and “emancipatory moment” of EU peacebuilding, they do not seem to reject the overall concept of a “liberal peace” (2006, p. 143-144). Rather, Merlingen and Ostrauskaite encourage steps to making the liberal peace more palatable through the concept of “governmentality theory”, which recommends political technologies such as using norms and training to make the transition smoother (2006, p. 23-25). However, since Merlingen and Ostrauskaite’s substantial work in 2006, little has been done to investigate further the EU’s peacebuilding role through policing missions from a theoretical and comparative perspective. Analysis has come rather on a case-by-case basis, reviewing the effectiveness and motivations behind individual CSDP policing missions. This thesis attempts to fill some this gap by providing a comparative, theoretically-rooted analysis of EUPM and EULEX, which both had an emphasis on police reform.

Some scholars have used normative theory to explain the motivations and outcomes of CSDP missions. For example, Isabelle Ioannides & Gemma Collantes-Celador (2011), argue that the EU’s “normative agendas” have hampered the effectiveness of EU police and rule of law efforts in the Western Balkans. They suggest that the focus on immediate crime-fighting prioritizes internal EU needs for security over the external needs of long-term democracy and good governance in the Western Balkans. Meanwhile, Heiduk (2011) applies the concept of “strategic culture” to the EU and US’s role in police reform in Afghanistan. Contrary to Kagan, Heiduk comes to the conclusion that EU and US approaches to police assistance have in fact converged significantly, and increasingly favour military means of stabilisation (Heiduk, 2011, p. 379-380). Christopher Chivvis analyses the EULEX rule of law mission in Kosovo and EUPOL Afghanistan from an empirical-analytical perspective, arriving at practical conclusions for how to improve CSDP civilian missions in future. For example, Chivvis identifies staffing shortages as one of the key challenges to mission effectiveness (2010, p. 43-44). Larivé likewise offers an empirical analysis of EUPOL Afghanistan, focusing on shortfalls in the Security Sector Model used in the mission, and how to improve it for

future civilian missions (2011). These approaches are useful for policy design, but do not address the EU's wider role in peacebuilding as an international actor. Chapter five of this thesis aims to combine both empirical and international relations analysis to give more of an overview of where CSDP fits into the EU's wider strategic aims, at least as pertains to peacebuilding in the Western Balkans.

Scholars have made comparisons between EU civilian missions in Kosovo and Bosnia and Herzegovina before (a fairly natural comparison to make for all the reasons explained in the introduction). Perhaps most notably, Efstathios T. Fakiolas and Nikolaos Tzifakis wrote about this in 2017 and again in 2019, comparing the scope of the mandates, resources used in the missions, and the success and deficiencies of both missions (Fakiolas and Tzifakis 2017; Fakiolas and Tzifakis 2019). They found that the missions were more successful when activities were focused and more technical, and worked alongside local interests and existing EU policies in the area (2017, p. 188). The analysis presented in this thesis builds upon Fakiolas and Tzifakis' findings.

## 2.2. International Relations Theory

Understanding what drives EU foreign policy and the CSDP is important to understanding how the EU perceives itself and seeks to define its role as an actor in international peacebuilding. Different schools of thought place a different emphasis on the factors behind CSDP decision-making, ranging from real-politik calculations in international relations, ideology, domestic cultures, national interest, public pressure, or simply pragmatic responses to times of crisis. A brief overview of the explanatory value of two major theoretical approaches to international relations behind the EU's CSDP, realism and constructivism, is provided here:

### Realist Theories

Realist scholars explain foreign policy decisions as rational responses to international power dynamics and struggle (Morgenthau, 1973). They believe that states or other international actors (such as the EU) use power to satisfy their national interests (Wohlforth, 2008). Some realist scholars have argued that EU foreign policy is an attempt to counter-balance US power and strengthen the EU's influence in a unipolar world (i.e. where the US's military and economic

dominance is unrivalled) (Pohl, 2013, p. 307-309). Barry Posen, for example, questions the emergence of the ESDP in the 1990s, as this was after the Cold War had already ended and the EU was relatively protected by the US and NATO from any real security threats (2006). Posen explains the move through balance of power theory: the EU was actually responding to the US's emergence as a hegemon and established the CSDP as a counter-balancing measure, so as to grow its own global influence and avoid total dependence on the US for security (Posen, 2006).

However, scholars have criticized Posen, as there is little empirical evidence that the CSDP has had any counter-balancing effect, and on the contrary, EU member states have continued to work closely with NATO and the US, even within CSDP missions themselves (Pohl, 2013, p. 309-310; Holworth and Menon, 2009). Furthermore, as Holworth and Menon suggest, if the key objective of CSDP was to maximize power, the EU would not structurally limit its own defence activities in such a way – they still must arrive at decisions by consensus when deploying military force, which drastically limits the scale of potential operations (2009). Finally, the steady decline in individual EU Member States' defence budgets in recent years would also suggest that they are not too concerned with US hegemony; most are not even close to reaching the NATO target of spending 2% of GDP on defence (Strategic Comments 2015). The realist argument has therefore not been particularly convincing nor has featured very prominently in EU scholarship explaining motivations behind the EU's wider strategic goals as a "peacebuilder". Realist theory may have more explanatory power in examining the EU CSDP missions in countries further afield, however in the context of EUPM and EULEX, it appears that the EU's primary motivation in taking a peacebuilding role is closely linked to the fact that this is in its neighborhood. As explained in chapters four and five, in both cases, it was always planned that the EU would take over the U.N. peacekeeping presence, and hence there was no struggle for power over who would have more influence. For this reason, while realist theory has some relevance for the EU's general foreign and security policy, is not applied to the final analysis in chapter five as constructivist theories (primarily normative power through liberal peacebuilding) are more relevant.

## Constructivist Theories

In contrast to realist theory, which uses power dynamics and international institutions to explain actors' decision-making, constructivist theories focus on the role of culture, national identity and other social factors to explain decision-making on the international stage (Meyer and Eva Strickmann 2011, p. 63-64). In the context of EU foreign policy, the predominant constructivist argument has been that ideational factors such as the need to create a European political identity, were the leading causes behind the creation of the CSDP (Pohl 2013, p. 308; Youngs, 2004, p. 416). According to sociological role theory, as first conceptualized by Kalevi Holsti, individual policy makers have a "national role conception" as shaped by a state's "history, culture and societal characteristics" which influences foreign policy decision-making (Lisbeth Aggestam, 2006, p. 12-13; Holsti as cited in Aggestam; p. 12-13). According to this theory, European role conception, including the values and norms that shape them, are a key factor guiding CSDP missions.

In a similar vein, scholars such as Robert Kagan and Felix Heiduk use the theory of "strategic culture" to explain why states with the same capabilities can still behave very differently in foreign policy matters (Heiduk, 2011, p. 366; Kagan, 2002). Kagan was the first to use this theory to outline a dichotomy between the US and EU strategic cultures, comparing them to "Mars and Venus" (Kagan, 2002). Kagan claims that the two no longer share "a common strategic culture", but rather, the US continues to depend on the military as its source of international power, while Europe is moving away from hard power to a world governed by rules, norms and institutions (Kagan, 2002, p. 3-4). According to Kagan, this "perception" of the world drastically affects the way the two interact in it — while the US is more likely to use decisive, military force to resolve conflicts, preferring policies of "coercion rather than persuasion", Europeans take a more peaceful approach, more likely to use "diplomacy, persuasion and negotiation" to solve problems (Kagan 2002, p. 4). This, Kagan argues, is a result of both the vast power differential between the two territories and also their differing norms and historical experiences (2002). Such theories could perhaps explain when and why the EU chooses to get involved in conflicts, and how it interacts with other international actors. The contrast between the EU's long-term,

peacebuilding mandate through EULEX, and the US's quick departure from Kosovo following the NATO campaign, perhaps demonstrates that the US is more comfortable with military interventions, while the EU seeks to specialize in civilian missions where it has a comparative advantage.

However, some scholars such as Andrew Radin have argued that EULEX's function could be better fulfilled by the United Nations and NATO because of the EU's inability to take a consensus stance on Kosovo's state-hood status (2013). Greicevci sargues that Kosovo demonstrated the EU's "handicapped actorness" in foreign and security policy, based on four key indicators of actorness: recognition, authority, autonomy and cohesion, primarily because it only had limited capacity and recognition as a result of its ambiguous stance on the state-hood issue (EU Actorness in International Affairs p. 299). While the latter issues seem to be rather specific to the unusual condition of Kosovo's statehood, it is also an example of where the EU's difficulty in reaching a consensus on major foreign policy issues can impact the strength of the mandates of its CSDP missions.

Another major constructivist theory that has been analysed closely in EU scholarship is the concept of "Normative Europe" as popularised by Ian Manners in his seminal article, "Normative Power Europe: A Contradiction in Terms?" (2002). Manners rejected the "English School" of International Relations theory, led by Hedley Bull, which considered the EU an insignificant international actor because it lacked military power (Bull, 1982). Manners argues that international power can manifest in ways other than military force. The EU, using a "soft power" approach, influences other nations by spreading the adoption of its "norms", such as, for example, abolishing the death penalty (Manners, 2002). Post-conflict state building may also be considered in the context of norm building. As evidenced by EULEX Kosovo and EUPM Bosnia and Herzegovina, the most expensive and longest running CSDP missions respectively, the EU has invested more heavily in state-building efforts near its own borders. These territories, moreover, have the potential to eventually join the EU itself, and hence it has made sense for the EU to instill its values into their institutions, priming them for eventual integration. Perhaps this is a factor that has given the EU a more important role in the post-conflict and peacebuilding process

in countries included in the EU enlargement process. Indeed, some authors argue that EU enlargement is the most successful EU “external relations tool” (Phinnimore 2006, p. 7) and “policy instrument and...conflict prevention mechanism” (Tzafikis 2007, p. 59).

### 2.3. Theorising Peacebuilding

In the 1990s and early 2000s, the dominant approach to general peacebuilding theory emphasised the practical use and outcomes of peacebuilding operations for policy analysts (Bellamy, 2004). The empirical-analytical approach is used to evaluate case studies of international peacebuilding efforts, and identify lessons from their relative success or failure for future interventions (Merlingen, 2014, p. 12). Generally, such case studies do not question the overarching aim of achieving a “liberal peace” (Merlingen, 2014, p. 12). International relations scholars such as Nicholas J. Wheeler, Christine Gray and Simon Chesterman mainly consider the legal implications of peacebuilding through international interventions, analysing their legitimacy and the motivations behind them (as cited in Bellamy, 2004, p. 18). These approaches, Bellamy has criticized, focused too exclusively on “policy relevance” and not enough on considering global politics and international relations theory (2004, p. 17-18). John Heathershaw similarly comments that more recent peacebuilding scholarship has done little to develop explanatory theory (Heathershaw, 2013). While this thesis does not have the scope to bridge that gap, an international relations lens will be used in chapter five to address some of the broader strategic implications of the case studies analysed, as regards the EU.

In contrast to the empirical-analytical approach, critical-normative approaches are more likely to question the overall aims and narratives of peacebuilding missions (Merlingen and Ostrauskaite, 2006, p. 13; Fetherston, 2000). For example, Heathershaw, Richmond and Franks critically analyse the concept of the “liberal peace” and its base assumptions, which continues to dominate peace building theory and practice (Heathershaw, 2008; Richmond and Franks, 2009). The concept of the liberal peace gained traction after the Cold War, as international bodies such as the United Nations and World Trade Organisation assisted countries in their post-democratic transition (Richmond and Franks, 2009). According to these authors, the “constituent parts” of the liberal peace include “democratisation, human rights, civil society, the rule of law and



economic liberalisation in the form of free-market reform and development” (Richmond and Franks, 2009, p. 3). Richmond and Frank criticize the liberal peace theory for undermining the agency of individuals and promoting a top-down approach to peace and state building that has arguably been less than successful in some cases (Richmond and Franks, 2009). Richmond et al. argue that the EU should undertake a “post-liberal” kind of peacekeeping, where local and regional input would colour the peacebuilding process (2011, p 450). For the EU, this would combine with the promotion of its own values, norms and institutional culture (Richmond et al. 2011, p 450).

The EU remains committed to the idea of liberal peace, and this is reflected in the EU’s core values; Article 10a of the Treaty of Lisbon states that EU external policy will be guided by the principles of “democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law” (European Union, 2007/C 306/01). The EU’s values are guided by the multilateral rules-based order and the UN Charter; a system of which the EU seeks to be a leader (EUGS 2016, p. 36). Hence, the concept of liberal peace should be incorporated into any serious theoretical analysis of EU CSDP missions.

#### **2.4. A framework for assessing the success of the EU’s EUPM and EULEX missions in building peace in BiH and Kosovo**

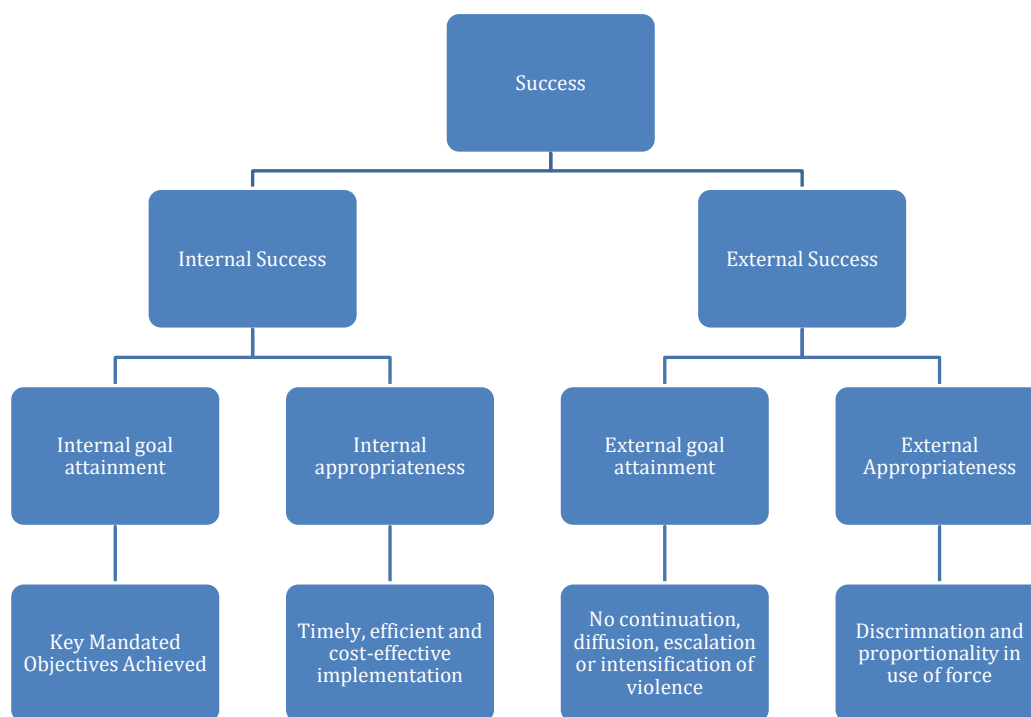
A better understanding of the European Union through international relations and peacebuilding theory would have important implications for the future of the CSDP and third countries on the receiving end of the EU’s peacebuilding efforts. The above review of two major international relations theories has shown how realist counter-balancing theory explains CSDP as a counter to US military power, and constructivist theories of sociological roles (“national role conception”), strategic cultures, and normative power, explain CSDP from a more cultural perspective. This latter theory of norms overlaps strongly with peacebuilding concepts, as the idea of a “liberal peace” and EU values are at the heart of EU peacebuilding efforts.

In a practical sense, theorists seem to agree that improving policing and the rule of law is one of the most important means of stabilizing post-conflict states. The CSDP is the key mechanism through which the EU is able to do this, and at the same time, exert influence through establishing its norms and values in the institutions it helps to build through peacebuilding efforts. Recent analysis on CSDP missions have focused on this normative function of the CSDP and have made empirical analyses of individual cases to improve future prospects of policing missions. However, even evaluating success from a technical stand-point is not a clear-cut task.

Annemarie Peen Rodt's argued that CSDP literature lacked conceptual discussion of how to define and evaluate success in military missions and filled this gap by conceptualizing a theory that takes into account both internal and external aspects of success when evaluating military CSDP missions (2014). Rodt takes into account the wider international context and evaluates not only the outcomes of the operation but also whether the way in which it implemented was appropriate or not (p. 148). Specifically, Rodt addresses four success criteria: internal goal attainment and appropriateness (whether the mandate was implemented successfully and goals achieved in an efficient manner), and external goal attainment and appropriateness (whether the operation helped manage the conflict and in an appropriate way) (2014, p. 33).

Figure 1: Success in military conflict management operations

Source: Rodt, Annemarie Peen. 2014. The European Union and Military Conflict management: Defining, evaluating and achieving success, Routledge, London and New York, p. 29.



Analysing internal appropriateness means evaluating the way in which a mission was carried out according to an internal set of indicators, chiefly: timeliness, efficiency, and cost-effectiveness of a mission (p. 24-26). In Rodt's theory, external goal attainment refers to going beyond the immediate mandate of the operation and looking at the overall purpose of military conflict management -- whether there is continuation, diffusion, escalation or intensification of violence

(p. 25-26). While Rodt's theory focuses on military CSDP missions, much of this can be applied to civilian CSDP missions, particularly as regards the internal success criteria. In fact, Rodt does this herself in a 2018 article ,with Zupančič, Pejič, and Grilj, in which Rodt's theory is applied to EULEX Kosovo (Zupančič et al, 2018). However, a slightly different conceptualization of the theory is used in this research, which considers a broader interpretation of external success to account for long-term institution building as a key component of the EU's peacebuilding strategy. Zupančič et al. keep the same conceptualization of external success as it is applied to military CSDP in Rodt's 2014 work: the main external goal evaluated was whether EULEX was able to prevent conflict, and to what extent "diffusion, escalation or intensification of violence" occurred (Zupančič et al, 2018, p. 606-607). Zupancic et al, also interpret external appropriateness almost exactly according to the criterion originally introduced in Rodt's 2014 work: the main indicator of whether a mission is externally appropriate is whether it "does more harm than good" (Zupancic et al. 2018, p. 606; Rodt 2014, p. 26).

Considering the broader mandate and objectives of peacebuilding evaluated in this thesis, a broader interpretation of external goal attainment will be analysed in chapter five and different indicators are used. It is argued that institution building (according to EU norms) is just as important as preventing outright violence in the long-term peacebuilding aims of CSDP, and hence this is one of the external goal attainment indicators analysed. Furthermore, this work goes further than simply using a "does more harm than good" indicator to justify the external appropriateness of a mission. It is important to note that Rodt bases this criteria on just war theory, which is divided into two categories: *jus ad bellum*, 'justice of war', whether launching a military operation is justified, and *jus in bello*, 'justice in war', whether the use of force is just once a war underway (Rodt 2014, p. 26-27; Walzer 2004). Hence, in the context of military csdp missions it makes sense to use this justification to consider whether launching a military mission was an appropriate response; the "harm" in a military intervention can include a needless loss of life. Arguably, it is difficult to do that much harm as a civilian peacebuilding operation – at least not as much as much harm as a military intervention. At the heart of the external appropriateness question is the mission's *raison d'être* – is this a proportional policy response to the challenges

at hand? To give this criteria more meaning in the context of EUPM BiH and EULEX Kosovo, the indicator of external appropriateness is broadened to consider whether launching the CSDP mission was a proportional response to the problems at hand – in other words, this research considers not just whether the missions did more good than harm, but whether they done the *most good* for long-term peacebuilding in the Western Balkans, considering alternative policy tools available to the European Union.

The findings chapter (five) of this thesis will use a combination of the above concepts, primarily normative power and the idea of liberal peacebuilding, alongside Rodt's framework, to explain what the outcomes of the CSDP were and why these outcomes occurred. Rodt's (modified) framework will be used to evaluate the technical success and long-term peacebuilding outcomes of the missions. An international relations theoretical lens will then be applied to the comparative analysis of these outcomes, to see whether the above theories can explain why they occurred and what this means for the EU's role as a "peacebuilder".

## Chapter Three: EUPM Bosnia and Herzegovina

### 3.1. Introduction

The Bosnian Civil War (1992-95) was the EU's first opportunity to launch a CSDP mission (at the time referred to as ESDP). More than that, it was an opportunity to show that the EU could be an actor in international conflict management, and that the 1991 Maastricht Treaty would be more than just rhetoric. The UN-mandated International Police Task Force (IPTF) was tasked with securing stability and law enforcement in BiH following the 1995 Dayton Peace accords (General Framework Agreement, Annex 11, 1996). Similarly as will happen with EULEX, the European Union Police Mission in Bosnia and Herzegovina (EUPM) was to replace the UN presence which left in 2002. The main tasks of the IPTF included monitoring and observing law enforcement activities and facilities; advising and training law enforcement, and advising BiH governmental authorities on the organization of civilian law enforcement agencies (Annex 11, Article III). The EU built upon this mandate, with a similar task of monitoring, mentoring and advising, as described below. It was the EU's first cross-border civilian operation, and took almost a year to prepare with an 8 month planning team (Fakiolas and Tzifakis, 2017, p. 201). Notably, EUPM was not the only CSDP mission in Bosnia. The EU launched EUFOR Althea in 2004, a military mission whose purpose was to enforce the Dayton Agreement, replacing the NATO Stabilisation Force in Bosnia and Herzegovina (SFOR) and Implementation Force (IFOR). As this is a military mission it falls outside of the scope of this research, however it would cause some overlap with EUPM's mandate which is examined below. In this chapter, the mandate, operational objectives and outcomes of EUPM are examined.

### 3.2 Mandate and resources

EUPM Bosnia had an initial mandate of three years at the beginning of 2003, which was then extended in 2005, 2007, 2009, 2010 and finally in 2011, concluding on 30 June 2012 (Council of the European Union, 2003; 2005; 2007; 2009; 2010; 2011; EEAS, 2012). EUPM was intended to take over from the UN IPTF and continue with the general objectives of the Dayton Agreement (Council of the European Union 2003, p. 2). While IPTF had a relatively "stronger" mandate with some executive functions to initiate immediate police reform after the war, EUPM did not have

an executive function but rather aimed to assist local ownership of the reform process (Latal 2018). The primary task of the mandate was to use monitoring, mentoring and advising (MMA) to assist local BiH forces in promoting the rule of law and creating structural police reforms, and “aim... to establish sustainable policing arrangements under BiH ownership in accordance with best European and international practice, and thereby raising current BiH police standards” (Council of the European Union 2003, Annex, p. 7). The document thereby immediately sets EU policing norms (interchangeable here with UN norms) as the standard to which BiH police must aspire to. At the same time, the EUPM’s priority was to create a police force representing the three major ethnic groups, and support local authorities in their efforts against organised crime (Fakiolas and Tzifakis, 2017, p. 200; Council of the European Union 2005, Article 2). As the mission went on, a particular emphasis was placed on strengthening law enforcement agencies and cooperation so that they could effectively fight organized crime and corruption in BiH.

EUPM BiH had a very wide mandate, partially because it was intended to take over from the UN IPTF had wide rule of law objectives (Council of the European Union 2003, p. 2). The mandate called for a “broad approach” which would address “the whole range of Rule of Law aspects”, including institution building (Council of the European Union 2003, p. 1; 2005 p. 55, 57; 2007 p. 40-42; 2009 p. 22-24). As the mission extended, the scope of EUPM appeared to grow. The renewed 2007 mandate gave EUPM the additional task of helping BiH agencies improve police prosecution capabilities and the criminal justice system (Fakiolas and Tzifakis 2017, p. 200; Council of the European Union, 2007, pp. 40-41, 44). Police reform and accountability were a primary focus in the 2009 mandate, in particular, calling for assistance of “BiH relevant law enforcement agencies in the fight against organized crime and corruption” (Council of the European Union 2009, p. 22, 25). Fakiolas and Tzifakis note that in practice, EUPM’s role appeared to grow from “generally helping reform the policing constituent of the rule of law sector to specifically helping re-establish police institutions, develop managerial capacities, and fight organized crime and corruption” 2017, p. 201). Over the years it seems that EUPM has

interpreted its mandate widely, taking on a state building role alongside merely advising on police reform.

From the first mandate, it is also clear that the EUPM was intended to complement wider EU policy aims in Bosnia and Herzegovina. The 2002 Council Joint Action noted that the mission should contribute to the “overall peace implementation” in BiH, and the achievements of the EU’s “overall policy in the region” (Council of the European Union 2003, p. 2). The Joint Action makes special reference to the Stabilisation and Association Process (SAP), which is the EU’s main policy framework for the Western Balkans and has the eventual aim of giving BiH (alongside the other Balkan states) EU membership status (*Ibid*). Therefore it is important to note that from the earliest mandate, the goals of EUPM Bosnia include contributing to the conditions for BiH’s eventual accession to the EU and the stable rule of law institutions that entails. Such an aim is both ambitious and vague, as it is difficult to quantify how much EUPM is meant to “contribute” to this overarching aim. It is perhaps not surprising that the mandate was extended so many times; the operational objectives, from the beginning, appeared to be overly ambitious. The 2002 Council Joint Action uses no uncertain terms in stating that EUPM “should” achieve its goals by 2005, by “ensuring” that the BiH police services are highly capable and efficient, meeting a long list of standards such as being free of political interference, being capable of investigating and countering corruption and organized crime, and working constructively with all BiH police forces and with neighboring states (Council of the European Union, 2003, Annex, p. 7).

EUPM had a moderate staff and budget, which was much smaller than that of the IPTF. Over the course of its mandate, IPTF had 1600 international staff and spent over US \$120 million a year while EUPM began with 774 staff (296 national and 478 international), which dwindled to 77 (44 national and 33 international) by the end of the mission (EEAS Factsheet 2012; Latal 2013, p. 52). The initial EUPM staff included over 400 police experts from 15 member states and 19 non-member states (EEAS factsheet 2013; Juncos 2013, p. 137). All member states contributed staff to EUPM, with additional staff participating from third country states (Canada, Iceland, Norway, Switzerland, Turkey and Ukraine) and ten acceding states to the EU (EUISS 2013, p. 82; EUPM 2012). EUPM established a unique source of funding for civilian CSDP missions which would be



used thereafter; all operations costs were funded from the Community budget, although salaries for seconded personnel were covered by their home states (Flessenkemper 2013, p. 58). Over the EUPM's almost ten year course, it was allocated a budget of just over 110 million euros from the Community budget, with the total amount actually spent expected to be around this number (EUISS 2013, p. 81).

### 3.2 Challenges

Juncos, Fakiolas and Tzifakis, note that there was confusion over the executive and non-executive functions of EUPM (Juncos 2013; Fakiolas and Tzifakis 2017). In executive operations, international police are given enforcement powers, supporting or replacing local officers, while non-executive missions have no operational powers, but focus more on monitoring, monitoring and advising (MMA) (Juncos 2013, p. 139). States that wanted a stronger emphasis on fighting organised crime called for a more executive role, however it was decided that the mission would remain a non-executive, with a "more proactive role" (Ibid). This caused some overlap between EUPM and EUFOR particularly in regards to organised crime, which caused coordination problems (Juncos 2013; Fakiolas and Tzifakis 2017, 2019). Solana claimed that as the Balkan region progresses closer to EU membership, "missions are gradually being transformed from executive missions to monitoring and advisory operations. And as the reforms take effect, what these countries need from us is technical assistance aimed at preparing them for the EU" (ISS 2013, p. 3). He argues that the Balkans are a good example of the EU's comprehensive, "all-inclusive approach" to crisis prevention and management "a large and diversified tool box" (p. 3-4). Others may argue that the approach is too diverse.

Juncos notes that there was some overlap between EUPM's mission tasks, and that of the EU's military CSDP mission in BiH, EUFOR Athena, particularly in the area of fighting organized crime (Juncos 2013). Some of the tensions between EUFOR Athena and EUPM Bosnia were relieved following an agreement made in September 2005 between the two agencies and EUSR, which comprised "Seven Principles for Coordination" and clarified that EUPM would take charge of the policing aspects through mentoring, monitoring and planning, alongside local authorities, while EUFOR would provide the operational capabilities in coordination with EUPM (Juncos 2013, p

140; Ioannides et al. 2007, p. 60). The new 2005 mandate (extended to 2007) also helped clarify things, establishing a “unified chain of command as a crisis management operation” (Fakiolas and Tzifakis 2017, p. 200). This gave EUPM authorization to direct EUFOR Althea to assist BiH government agencies, despite still not having executive powers.

As the first CSDP mission, EUPM in many ways had to learn by doing, and initially lacked coherent procedures and institutional structures (Juncos, 2013; Hansen, 2006; Latal, 2013). This is partially why it took so long for EUPM to get off the ground. While the EUPM was able to recruit many secondments from IPTF, as would prove the case in EULEX Kosovo, there were difficulties with finding enough qualified and experienced staff; the majority of staff had to be seconded and member states were reluctant to part with their best experts (Fakiolas and Tzifakis, 2017). The 2003 Council of the European Union report notes that “additional civilian experts would have been beneficial in at least two areas”: procurement and financial management, and programme development (p.9-10). This became increasingly apparent when the mission mandate became more specific to rule of law operations, as this required rule of law experts (Ibid). Fakiolas and Tzifakis write that “like in other CSDP civilian missions, the EUPM international officers were probably appropriate for police activities, but they lacked the political awareness and flexibility to advise and instruct government bodies at all levels (central state, entity, local) to reconstruct obsolete policing arrangements and establish the rule of law” (2017, p. 203). Furthermore there were some coordination issues as staff members, although of similar skill and experience level, followed different police norms and standards in their home states (Ibid). EUPM also faced challenges in cooperation with local authorities and elites. Fakiolas and Tzifakis note that EUPM officials met “fierce resistance” among some BiH policy-makers when dealing with organised crime, because many would use the police as an institutional instrument for their political and economic benefit (2017, p. 203).

In interviews with local civil society activists, analysts, journalists and NGO representatives, Srecko Latal found that local perceptions of the success of EUPM BiH were initially negatively influenced by the “bad publicity” leftover from the UN IPTF which was deeply unpopular among locals (2018, p. 52). During the war, Bosnian police institutions were fully integrated into military

forces; one of the tasks of UN IPTF was to carry out a strict certification process and remove officers implicated in war crimes, which saw police numbers go from 44 000 to 16 000 (Ibid). Locals were highly critical of the execution of this certification process because a large number of the wartime police cadre remained in command structures (some believed to be linked to war crimes), while mainly only lower-ranking members were filtered out, some on erroneous grounds, and no mechanism was instituted to file a complaint (Ibid). In addition, Latal identifies issues around a perceived lack of cost-effectiveness which contributed to the unpopularity of IPTF and EUPM (2018). Hence, locals were already wary of international police reform by the time EUPM took over. However, according to Latal's interviews, locals perceived EUPM more positively than IPTF, as the staff was generally seen to be more capable and helpful (2018). Nevertheless, Latal's found (in 2018) that interviewees perceived local law enforcement agencies, the judiciary and public administration, had recently become worse and was more corrupt and inefficient than 10 years previously (Latal 2018). Part of the blame for this was attributed to the EUPM's perceived inability to reform the police institutions (Ibid). Furthermore, locals generally found that the security situation had likewise generally deteriorated in BiH and that it had become more dangerous to live there (Ibid). Whether this is actually the case or only perceived to be so, it is clear that EUPM did not inspire confidence in the local populace. Yet while expectations were largely disappointed, many locals also did not want EUPM to leave, as the international presence gave some reassurance in what was perceived to be an on-going political and economic crisis (Ibid). In contrast, others felt that as EUPM was not helping in police reform, it was better to leave in order to force BiH to "take its fate into its own hands" in order to take steps towards EU membership (Latal 2013, p. 57). One of the local researchers interviewed even suggested that EUPM worsened BiH's enlargement prospects, as the large international presence contributed to the perception that BiH was a "failed state" (Ibid). Latal agreed that BiH seems stuck in "political deadlock" and is falling behind the rest of the region in its ultimate goal of EU membership (Ibid). Latal concludes that while locals appreciated aspects of EUPM, such as staff's willingness to engage with the community, overall the public had "mixed feelings" about the mission, as with any other international engagements (Ibid).

### 3.4. Outcomes of EUPM

Fakiolas and Tzifakis argue that EUPM had some success in institution building on a smaller scale; strengthening and harmonize the regulations and functions of law enforcement agencies across BiH at the entity and local levels (Fakiolas and Tzifakis 2017). BiH police bodies are reported to be functioning better and more transparently, at least when the work did not interfere with the interests of powerful elites (Ibid). Furthermore, EUPM did manage to harmonize policing procedures and practices to be more in line with EU norms; making police process more streamlined, coordinated and efficient, and introducing technological changes into police practices. Some successes included the establishment of the Ministry of Security (SIPA), and the strengthening of state-level agencies such as the State Border Service (SBS), and State Investigation and Protection Agency (SIPA) (Juncos 2013, p 144). EUPM helped to draft and implement laws, educate enforcement agencies (such as on the importance of intelligence gathering and information sharing for fighting crime), recruit personnel and provide necessary financial support (Ibid). A number of police reform projects were also set up on a local level, to improve local ownership of reforms (Juncos 2013). As evidenced by Latal's interviews, it seems locals did perceive EUPM to be engaged on a local level, at least more so than the United Nations mission was (Latal 2013).

In 2019 the European Commission published a report assessing, among other things, that state of BiH's rule of law institutions and readiness to become an official candidate for EU membership (European Commission 2019b). The document emphasises that the "rule of law and respect for human rights" are founding values of the EU, and a necessary criteria for membership (2019, p.28). In the assessment of its judiciary and fundamental rights, BiH is found to only have "some level of preparation to implement the *acquis* and European standards" (Ibid). The report finds that the legislative and institutional framework for protecting fundamental rights is "largely in place", but it still needs to be fully implemented and legislation throughout BiH needs to be more harmonized, in accordance with European standards (Ibid). However, the judiciary has further to go: its legislative and constitutional framework is incomplete, and its independence needs to be strengthened still (Ibid). Corruption is also found to be "widespread", and the institutional

capacity to tackle it to be weak; law enforcement agencies are fragmented and there is a lack of harmonization across legislation, strategies and action plans (Ibid). The report finds that “all levels of government show signs of political capture, directly affecting the daily life of citizens, notably in health, education, employment and public procurement matters” (Ibid). Part of the problem lies with the nature of the constitution (as established by the Dayton agreement) which does not allow for the centralisation of BiH’s police and judicial system as the EU has been pushing for. Serbians in Republika Srpska and Croats in the Federation (i.e. autonomous Croatian cantons in this entity) largely oppose centralization because they fear they will lose autonomy in their own entities. As the Prime Minister (now President) of Republika Srpska, Milorad Dodik, puts it: “The Bosnian Serb government will not agree to a complete merger of the Muslim-Croat and Serb police forces... if we will have to choose between the European Union and the police of Republika Srpska, we will choose the police of Republika Srpska” (AP, 11 December 2006).

The on-going issues with corruption and democratic backsliding can be represented through BiH’s “freedom score”. Freedom House, which ranks the democratic scores of countries in the world on a set of criteria including freedom, political rights and civil liberties, identifies BiH as only a “partly free” country, with a score of 53 out of 100 (Freedom House, 2019a). Freedom House gives a useful overview of changes in democracy and associated indices over time (1 representing the highest level of democratic progress and 7 the lowest):

	2003	2005	2007	2009	2012	2018
Judicial Framework and Independence	5.00	4.25	4.00	4.00	4.25	4.75
Corruption Levels	5.00	4.50	4.25	4.50	4.50	5.00
Overall Democracy Score	4.54	4.18	4.04	4.18	4.36	4.64

Figure 2: BiH Democracy Score obtained from Freedom House 2012 and 2018

Over the period of the EUPM's mission, the democracy score improved a little but not substantially. In 2003 when EUPM was launched, it had a score of 4.54 out of 7, and improved a little each year to reach its best score of 4.04 in 2007. However, since 2007, the score has steadily gotten worse each year. By the end of EUPM, in 2012, the score had crept up to 4.36, which was still a slightly better score than when EUPM began but not by much. By 2018, the score reached a high gone up again and was worse than in 2003, reaching a high point of 4.64. In fact, it was highest the year the mission launched and associated indices did not change substantially. This seems in line with the local perceptions that EUPM has not had a significant impact on reducing corruption and crime in Bosnia and Herzegovina. BiH still faces a weak central state and centralization of police institutions because the two political entities created by the Dayton Agreement, Republika Srpska and the Federation of Bosnia and Herzegovina, continue to be highly divided (Ibid; Juncos 2013). While the initial mandate was worded broadly, overcoming these structural issues was well beyond EUPM's scope or capacity.

## Chapter Four: EULEX Kosovo

### 4.1 Introduction

EULEX was launched under the framework of Resolution 1244 on 4 February 2008 via the Council Joint Action on the European Union Rule of Law Mission in Kosovo, and is still an on-going mission (Council of the European Union, 2008). Similarly to EUPM, the mission was intended to take over the United Nations presence in order to strengthen peacebuilding in the longer term. This was to be done in accordance with the Ahtisaari Plan which would establish Kosovo's independence; institution building in Kosovo would be done with the ultimate goal of establishing independent state structures (see chapter one). However, the EU had not reckoned on Serbia's opposition to the Ahtisaari Plan and Russia's veto in the UNSC, as well as the opposition of several EU members. In order to launch EULEX, the mission had to be oriented with a neutral status toward the question of Kosovo's statehood. Despite being the largest CSDP mission, EULEX Kosovo has widely been criticized for being inefficient and having less than desired results in promoting the rule of law in the face of continued systemic corruption and organised crime, yet at the same time it is difficult to imagine how Kosovo would function without the EU's presence. This chapter will examine the objectives and mandate of EULEX Kosovo, before discussing several major challenges and outcomes of the mission to date. In chapter five, outcomes and success of the overall mission will be compared with that of EUPM BiH.

### 4.2 Mandate and resources

EULEX is an integrated mission with three major components: policing, justice and customs, with the overall aim of promoting the rule of law in Kosovo. EULEX is the largest EU civilian mission and the most expensive, with a budget of EUR 169.8 million for 2018-2020, and over one billion Euros allocated to the mission to date (not including the salaries of seconded staff), with contributions from all 28 EU Member States (Fakiolas and Tzifakis, 2017, p.192; Council of the European Union, 2008-18). Launching in 2008, the mandate has been extended four times, most recently on 8 June 2018 (for a period until 14 June 2020), promising to "continue to support relevant rule of law institutions in Kosovo on their path towards increased effectiveness, sustainability, multi-ethnicity and accountability, free from political interference and in full

compliance with EU best practices" (Council of the European Union, 2008; 2009; 2010; 2012, 2014; 2016; 2018; EULEX Kosovo Press Release, 2018). The original Mission Statement in 2008 had a focus on three key institutions: "strengthening an independent multi-ethnic justice system and multi-ethnic police and customs service", ensuring these institutions are free from corruption and uphold international standards (Council of the European Union 2008, Article 2). This was to be achieved chiefly through "monitoring, mentoring and advising" (MMA) as well as "certain executive responsibilities", most important of which was the ability to prosecute and adjudicate serious crimes, including war crimes, terrorism and corruption (2008, Article 3). Hence, the initial mandate was relatively broad and ambitious; the EU was to promote the rule of law, ensure independent, multi-ethnic institutions, fight organized crime, and help maintain public order and security.

The latest mandate has reduced EULEX responsibilities, particularly in its executive functions, in order to appease Kosovo leaders who wished to reduce EULEX's involvement (Fakiolas and Tzifakis, 2017). While the mandate still has the main operational objectives of MMA over the three rule of law institutions, the 2018 Mission Statement is less specific, stating support for "selected Kosovo rule of law institutions", and only "limited executive functions", with a view to phasing them out completely in the near future (Council of the European Union 2008, Article 1). It keeps "limited" policing and forensic medicine executive responsibilities, such as security operations and public order, and reduces monitoring in criminal and civil justice institutions to "selected cases and trials... while respecting the independence of the judiciary" (Ibid). This last change is particularly significant, in the 2014 mandate extension, the EU decided it would no longer accept any new cases unless under "extraordinary circumstances", and only work on closing the ones it has already opened (EULEX Kosovo 2016b; Proksik p. 17). In the most recent mandate, EULEX has ceased its executive function altogether in the justice system (Press Release 3 July 2018). The most recent mandate has also included additional asks of providing technical support to the Dialogue agreements between Belgrade and Pristina, which began in 2011 and have seen significant progress (EULEX Kosovo 2018b).



### 4.3 Challenges

Internal EU division over Kosovo's independence has created confusion for EULEX's goals and mandate. As already stated in chapter one, the EU initially intended for EULEX to assist building the institutions of the independent Kosovo state, in expectation that the Ahtisaari plan, recognizing Kosovo's independence, would pass through the UN. As it stands, the EU must walk the line between improving Kosovo institutions while being careful not to appear as if it is supporting Kosovo's independence as a state.

Until Serbia and Kosovo come to an agreement, it is unlikely that objecting EU states will accept Kosovo's status for fears it would set a new precedent in international law. For example, Spain, which is particularly anxious over Kosovo's status due to similarities with its own situation with Catalonia, objected strongly to any mention of Kosovo in the EU's 2018 enlargement strategy to the Balkans, and Spanish Prime Minister, Mariano Rajoy, refused to participate in a Balkan summit because of Kosovo's presence in May earlier this year (B92 1 February 2018; B92 15 May 2018). Bieber considers Kosovo to be a "minimalist state", meaning one that "barely fulfil[s] functions generally associated with states" and has limited legitimacy but meets the minimum to endure (Bieber 2011, p. 1784). Bieber argues that the EU promotes "minimalist states" in the Western Balkans which is in tension with "member-state building", or building states that have the potential for EU membership (Ibid). Officials have attempted to emphasise the technical aspects of the mission in order to avoid criticism that the mission is supporting Kosovo's independence (Chivvis 2010, p. 39-40). However, as Chivvis notes, in practice, officials must make decisions that make an implicit choice regarding Kosovo's status – for example, EU justices must choose between four different legal codes when trying cases; the Kosovo code, the UNMIK code, the Serbian code and an ancient pre-Yugoslavia code (Ibid). The confusion around how to navigate this mandate caused difficulties throughout the mission.

EULEX was slow to start because of the debates around Kosovo's statehood and how to implement the Ahtisaari plan, not reaching full operational capacity until 6 April 2009, over a year after the mandate was adopted (Fakiolas and Tzifakis 2017, p. 191). EULEX Kosovo has also had significant issues with staffing and procurement. This has been an issue for the EU in other CSDP

missions, such as EUPOL Afghanistan, as they primarily rely on secondments from national civil services rather than contractors (Chivvis 2010, p. 40-41). As in the case of EUPM, EU member states were reluctant to hand over specialists to EU missions and secondments proved lower than pledged (Chivvis, p. 41; Fakiolas and Tzifakis 2017, p. 192). Furthermore, unlike military operations, civilians cannot be made to work in undesirable locations and must be recruited. The EU has had to compensate by increasing *per diems*, however has still struggled to close the shortfall. EULEX was initially intended to have a staff of 3200 people (including police officers, lawyers, judges, and customs officials from both international and local staff), yet never reached full capacity (Tzafiolikas and Fakiolas p. 192). In 2010-2011, it only filled around 75% of intended roles, working at only 60% capacity in the justice sector with a backlog of over 210 000 cases (Ibid). Furthermore, staff have had a high turnover rate, which has reduced the quality of expertise and its long-term transference to locals (Ibid). Procurement of basic equipment has also proved a challenge. Civilian staff do not bring their own equipment (like military staff), so the EU must procure it for them, which has become a lengthy process due to onerous EU regulations (Chivvis 2010, p. 41). Despite being the most expensive CSDP mission, the EU has not been able to turn its enormous budget into an efficient and well-equipped staff, which has significantly delayed progress.

Another significant on-going challenge for EULEX has been the fact that a large number of politicians in Kosovo have former ties to criminal groups. The 2010 International Crisis Group report states that "Kosovo suffers from the widespread impression that it is run by a lawless political elite in control of every aspect of society" (2010, p. i). Following the war, many political parties and politicians relied on their former war-time connections, such as Kosovo Liberation Army veterans, some of whom had been accused of war, organized and politicized crimes (Radin 2014, p. 186). There were also allegations that leaders funded political activities through criminal activities such as smuggling (Radin, 2014 p. 187). Prosiak explains that UNMIK refrained from investigating or prosecuting certain senior Kosovar officials, because the effect would be too destabilising on local governance (Ibid. p. 11-13). The former UN police head of the Kosovo organised crime bureau, Bertram Welsing, stated that "owing to the high degree of overlap

between organized crime and former KLA commanders, the OCG [Operational Planning Group] assigned individuals whose arrest would likely provoke civil disturbances and jeopardize the consent of Kosovo Albanians for the mission to an 'A' list. They were essentially untouchables" (Welsing 2016: 175 as cited in Prosiak, p. 11). EULEX promised to address systemic corruption by going after the "Big Fish", however few trials have successfully targeted senior officials who are widely seen as corrupt or guilty of crime themselves (Radin, 2014; Proksik 2017, p. 11-13). Pino Arlacchi, an Italian member of the European Parliament Foreign Policy Committee and Executive Director of the UN Office for Drug Control and Crime Prevention (ODCCP) once called Kosovo a "mafia state" and criticized EULEX for not prosecuting Kosovar leaders with links to organized crime and for having weak witness protection (B92 2011).

EULEX also faced backlash for prosecuting some wartime leaders who maintained good public support, such as the former Minister of Transport, Fatmir Limaj, who was also formerly a KLA leader and was prosecuted by EULEX to local protestations (Radin 2014, p. 186). There have even been claims of corruption within EULEX. A former Chief Judge for EULEX, Malcolm Simmons, was subject to several investigations for "serious allegations" of wrongdoing, but himself made a number of accusations about EULEX, including that he was pressured to convict Limaj for political reasons (Hopkins, 2017). Agron Bajrami, editor in chief of a local Kosovo newspaper *Koha Ditore*, put it as "instead of Europeanizing Kosovo, we have Balkanized EULEX" (as cited in Hopkins, 2017). Maintaining good relations with political elites has therefore been a significant challenge for EULEX, when so many have ties to criminal associations or were formerly involved in organized crime.

#### 4.4. Outcomes

Nevertheless, despite these problems, EULEX did achieve some successes. EULEX helped to establish a functioning police force in Kosovo, which has become increasingly independent although still faces internal and external challenges. There is a greater ethnic balance in the Police force, with 16.10% of human resources filled by members minority communities (Fakiolas and Tzafikas, 2017; Joint Rule of Law Coordination Board 2015, p. 11). In terms of public order, Specialised Units (which are located in Pristina) have had a high level of performance in tasks

such as "crowd control and riot control, public order operations, VIP security and special police operations", although Quick Response Teams, a subset, have made "little progress" in addressing significant management and equipment shortcomings (EULEX, 2017, p. 13). Among the other positive achievements it should be noted that by June 2017, the Kosovo Police (KP) had formed 74 technical, bilateral and multi-lateral agreements on police cooperation, 10 of which were formed with EULEX, and 28 were regarding Border Police (EULEX 2017, p. 11). According to the EU's report, the KP no longer needs assistance in negotiating third-party agreements, but it still faces challenges in gaining EUROPOL and INTERPOL membership due to its legal status, thus it relies on EULEX to facilitate contacts with EUROPOL, and the UNMIK for INTERPOL matters (Ibid). The report also notes notable improvements in Kosovo Customs, which was a key objective in the mandate (2017). In 2016, the Kosovo Customs Enforcement Department charged 164 people for customs offences, seized 350 kg of narcotic, and broke up three large organised crime groups (Ibid, p. 19). The report also notes closer inter-agency cooperation between the Kosovo Customs, KP and the Tax Administration of Kosovo.

However, some EULEX initiatives have been less-than effective. For example, EULEX's attempts to train Kosovo police in intelligence-based reports had relatively poor results; police made fewer intelligence-based reports from 2016-2017 than the previous year, and there is a lack of staff and training in the area (EULEX 2017, p. 12). The North of Kosovo, which has a majority Serbian population, also still faces significant problems. Kosovo institutions are severely under-developed in the North, due to their lack of legitimacy among the Serbian Majority in this area. The 2017 EULEX report cites political interference and a lack of access to judicial mechanisms as a major obstacle to achieving rule of law in this region (2017). Furthermore, law enforcement agencies are not well equipped to handle conflict in the North. Kosovo Police have continued to provide "mainly reactive policing services to residents in northern Kosovo" (p. 15 EULEX 2017, p. 15). For example when near weekly fights would erupt in in Mitrovica North between young Serbian and young Kosovo Albanian groups, the KP increased its presence in the area but did not address the issue through longer-term methods such as forming working groups to deal with the cases or collaborating with the municipality more closely (p. 15).

There are a number of issues in Kosovo's rule of law institutions, some of which have been exacerbated by EULEX's decision to withdraw from its executive role in adjudicating major crimes. The 2017 report identified major delays in legal proceedings caused by factors such as slow case allocations, technical issues, absent lawyers, frequent rotations in judges and prosecutors and delays in forensic expert reports "without explanation" (EULEX 2017, p. 22). In criminal cases, these have even resulted in the expiration of the statute of limitations, leading to cases being prematurely closed without any rulings (p. 22). Other technical problems have included having inadequate space and basic equipment for court facilities, and poorly maintained court registries that have resulted in files going missing (and possibly being tampered with) (Ibid). The courts have also failed on many occasions to provide adequate translations for non-Albanian language speakers and authorities have been reluctant to acknowledge potential hate crimes, which has led to "misleading statistics" (EULEX Kosovo 2017, p. 23). The report also finds that there is "poor coordination" among the key rule of law institutions, such as police and prosecution, and insufficient number of staff in courts and prosecution offices (Ibid). These outcomes highlight both the technical issues regarding staffing that have already been identified, may reflect the lasting impact of corruption and ethnic tensions on Kosovo's key institutions. These are particularly obvious when there significant and partly unexplainable delays in some criminal proceedings, whether there is because of political interference or a lack of will among experts to aid the process.

More broadly, the levels of crime and corruption have worsened in Kosovo and Proksik argues that the EULEX mission has largely been ineffective in countering organised crime (2017). Kosovo remains a crime hub, particularly for drug dealing, human trafficking and the smuggling of goods and people (Proksik 2017). Heroin trafficking, initially a substantial source of funding for the KLA, has since become a mainstay amongst Albanian criminal networks and continues to be a major activity according to anecdotal evidence. Furthermore, Proksik notes that the corruption has become systemic as many leaders and elites in Kosovo have former criminal ties through the KLA (2017). In the first six years of operation (2008-2014), EULEX had only obtained 20 verdicts in organised crime, averaging at about just three per year (Prosik 2017, p. 17). Although there have

been improvements in recent years; after a multi-disciplinary team was established in 2015 to coordinate cases of significant corruption and organized crime, there were 31 indictments of high level cases, including of corruption allegations of high level officials (European Commission 2018, p. 18).

EULEX is an on-going mission so it is difficult to assess how democracy and corruption levels will change once the mission leaves, however as the mission has been in place for over ten years the indicators in Figure 3 give a general idea of how it has influenced long term rule of law outcomes. The general levels of corruption have remained around the same level since EULEX began. Likewise, the level of democracy and judicial independence has not changed much; the overall democracy score was worst in 2013 (at a rating of 5.25), but then improved to reach its lowest rating of 4.93 in 2018. The judicial framework and independence improved only slightly, from 5.75 in 2009 to 5.50 in 2018. As of 2019, Kosovo holds an overall “partly free” rating, with a score of 54 out of 100, by Freedom House (Freedom House, 2019b). This data suggests that EULEX only marginally improved the strength of democratic institutions, and corruption remained around the same level. However, it is also important to note that this data does not show us what the levels would have been without EULEX’s presence; it may well have prevented these indicators from getting substantially worse.

	2009	2011	2013	2015	2016	2018
Judicial Framework and Independence	5.75	5.75	5.50	5.75	5.75	5.50
Corruption Levels	5.75	5.75	6.00	6.00	6.00	5.75
Overall democracy score	5.14	5.18	5.25	5.14	5.07	4.93

Figure 3: Kosovo Democracy Levels, compiled Freedom House 2018\*

\*Freedom House Nations in Transit “Democracy score” (1 being the highest; 7 being the lowest)

While the reasons for this and other above identified underachievements of the EULEX mission in Kosovo have often been grounded in technical issues, the core problem of EULEX’s engagement in Kosovo is still related to the disputed statehood status of Kosovo. As Borzel and Grimm (2018) argue, confusion over Kosovo’s status has constituted one of the major challenges to more effective engagement of the EULEX mission in Kosovo (and consequently to its more effective state-and democracy-building) due to EULEX’s dual agenda problems: “the dual role of acting as a peacekeeper and as an EU approximation observer, as well as the problem of highly contested statehood largely explain [EULEX] failures in Kosovo” (p. 123). This dual role has particularly negatively affected EULEX’s ability to thoroughly address the problems of widespread corruption and the involvement of organised crime in politics, as it largely hesitated to prosecute highly ranked Kosovar politicians in order to preserve ‘political stability’ and peace in a newly emerging state. Grecevci (2011) argues that the EU will have to overcome issues of consensus and endeavor to act with one voice if it will be effective in the CSDP. However it is unlikely that the EU will reach a consensus until Serbia and Kosovo come to an agreement. The major challenge of this mission is likely not particularly transferable to other areas of the CSDP, as

Kosovo has a unique status problem of being a contested state. However, certain challenges, particularly the technical aspects of the mission and the challenge of systemic corruption, may be more relatable. This emphasises perhaps the importance of democracy building alongside institution building, which again, was affected in Kosovo by its disputed status.

Grecevcı suggests that the EU is only able to act in a "limited capacity" in Kosovo as while it has authority and autonomy, it has only "*ambiguous recognition*" by other actors due to Serbia's objections to institution building in Kosovo (p. 299). Radin goes even further in saying that the EU's neutrality on Kosovo's statehood is incompatible with institution building in Kosovo, which is better left to other international organizations such as NATO (2013). However, it is difficult to see how the United States or even the United Nations would have had greater recognition by Serbian authorities, if the issue of Kosovo's state-hood status remained unresolved. Aggressively state-building in Kosovo with no heed paid to Serbia's opposition may well have escalated tensions in the region, which is not conducive to long-term peacebuilding efforts. To avoid escalation of conflict and to achieve the full support and cooperation of Serbian authorities, Serbia's acceptance of Kosovo's independence must also be sought. While this is admittedly a difficult task, perhaps the best policy tool available to achieving this end is the EU's enlargement process and monitoring on-going dialogues between Belgrade and Pristina, which has shown some progress in recent years. In this area, the EU's neutrality could be seen as a strength rather than a weakness.

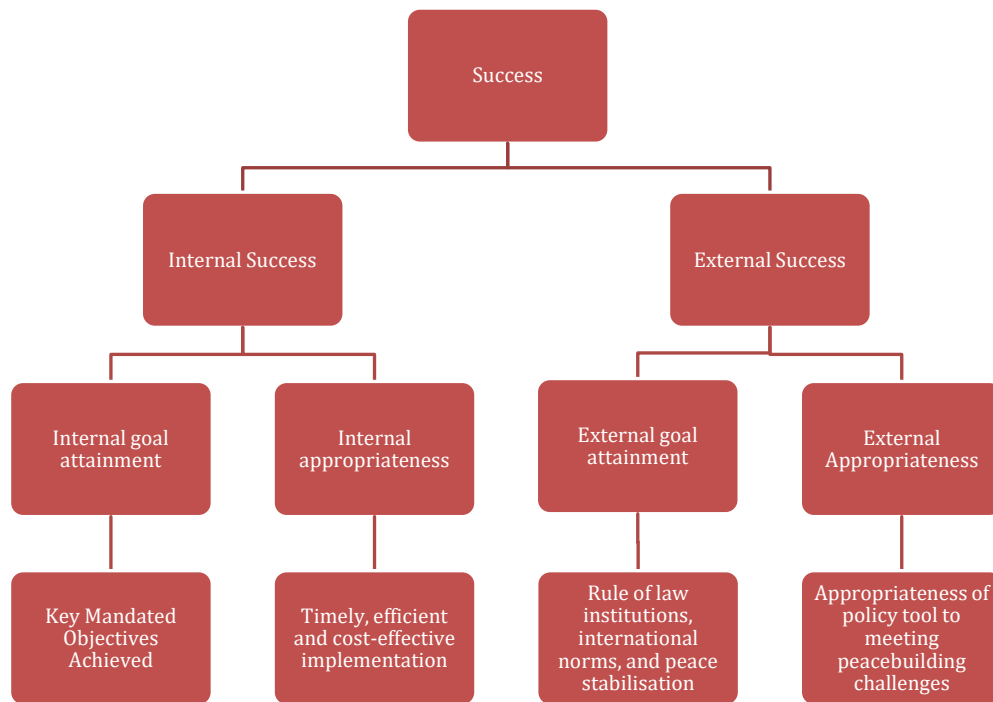


## Chapter Five: Discussion and Conclusion

As discussed in chapter two, the success of EUPM and EULEX can be evaluated using the four criteria identified by Rodt: internal goal attainment, internal appropriateness, external goal attainment and external appropriateness (2014). This chapter synthesizes the analyses from the previous two, to provide a comparative overview of the internal and external success of EUPM and EULEX, before discussing potential reasons why these outcomes occurred as they did. Finally, the chapter addresses whether this can be explained by normative power theory and the EU's liberal peacebuilding approach.

In figure below, internal goal attainment refers to the mission's ability to meet its operational objectives as defined by its mandate, while internal appropriateness refers to evaluating the way in which a mission was carried out according to an internal set of indicators: *timeliness* i.e. how quickly a mission is deployed after establishing a mandate; *efficiency* in carrying out mandate objectives, and *cost-effectiveness*, including both financial and political costs (Rodt 2014, p. 24-26). This relates to the first sub-question of this thesis: *how successful have EUPM BiH and EULEX Kosovo been in achieving their mandates?*

According to Rodt's theory, external goal attainment and appropriateness refers to the overall ability and manner in which an operation has sought to achieve military conflict management (Rodt, p. 26). The indicators of external success have been modified slightly in this thesis, as argued in chapter two, to reflect the overall peacebuilding aim civilian CSDP missions (which in this case includes conflict management, but also includes the institutionalization of the rule of law and international norms in line with the EU's Western Balkans strategy). The criteria for external goal attainment is thus whether rule of law institutions, international norms and peace have strengthened, weakened, or remained the same? The external appropriateness question goes even broader in considering whether CSDP is an appropriate and proportional policy tool to use for the EU's overall peacebuilding aims in the Western Balkans. This relates in particular to the second subquestion of this thesis: *how successful have these missions been in promoting long-term peacebuilding in the Western Balkans?*



**Figure 4: Criteria for evaluating the success of civilian CSDP missions**

Building on Rodt's (2014) model for success in military conflict management operations (see figure 1).

## 5.1 Internal and External indicators of success

	EUPM		EULEX	
	Indicator	Level of Success	Indicator	Level of Success
<b>Internal goal attainment</b>	Raise BiH Police standards to EU levels	Partial success	Strengthening an independent multi-ethnic justice system and multi-ethnic police and customs service	Partial Success
	Create effective, multi-ethnic and independent police force through MMA	Partial Success	Strengthening an independent multi-ethnic justice system and multi-ethnic police and customs service	Partial success
	Strengthen capabilities of law enforcement agencies to fight organized crime and corruption	Failure	Strengthen capabilities of law enforcement agencies to fight organized crime and corruption	Failure
<b>Internal Appropriateness</b>	Timeliness	Failure	Timeliness	Failure
	Efficiency	Failure	Efficiency	Failure
	Cost-effectiveness	Success	Cost-effectiveness	Failure

<b>External goal attainment</b>	Prevention of further conflict	Success	Prevention of further conflict	Success
	Stable and independent rule of law institutions	Partial Success	Stable and independent rule of law institutions	Partial success
	Establish EU norms	Partial success	Establish EU norms	Partial success
	Strengthening law enforcement agencies' capabilities to tackle corruption and organized crime	Failure	Strengthening law enforcement agencies' and judiciary capabilities to tackle corruption and organized crime	Failure
	Democratization	Partial Success	Democratization	Partial Success
<b>External Appropriateness</b>	A proportional policy response to meeting peacebuilding challenges	Partial Success	A proportional policy response to meeting peacebuilding challenges	Partial Success

Figure 5: Internal and External indicators of success of EUPM and EULEX

### 5.1.1. Internal and External Goal Attainment

In the cases of EUPM Bosnia and EULEX Kosovo, the internal goals were quite explicitly linked to more general peacebuilding goals, as a result of the wide and somewhat vague mandates they were given. Both missions were tasked with aiding and contributing to rule of law reform through monitoring, mentoring and advising, and in the case of EULEX, the bigger mission, this also included some executive functions. Broadly speaking, both EUPM BiH and EULEX Kosovo had partial success in achieving their overall operational goals. Where they did better was in setting up legislative frameworks and helping with the specific, technical aspects of institutional reform. For example, EUPM helped to promote the importance of intelligence sharing amongst law enforcement agencies and provided technological assistance. EULEX was perhaps, unexpectedly, most successful in reforming the customs service, while the judiciary and law enforcement institutions continued to face major challenges. This perhaps reflects the difficulty arising from the more political nature of the latter institutions.

However, in terms of broader peacebuilding outcomes, both EULEX and EUPM struggled to ensure the rule of law institutions were strong enough to tackle organised crime and corruption in practice. Both Kosovo and BiH have corruption and ties to crime at the highest level, and the EU appears unwilling to sacrifice stability to address this adequately. Chapter three demonstrated that today, corruption is at slightly higher levels in BiH than when EUPM was launched, and at about the same level in Kosovo as when EULEX was launched. Furthermore, local perceptions of the two missions appear to be that they do not go far enough in providing real reforms. In Kosovo, there are concerns that EULEX has withdrawn its executive oversight of the judicial system too early, and that corruption will only get worse. In Bosnia, locals felt that overall crime and corruption had gotten worse, yet still some took comfort in there being an international presence.

### 5.1.2. Internal and External Appropriateness:

Neither EUPM nor EULEX could not be said to have deployed in a “timely” manner. EUPM faced issues getting off the ground because it was the first CSDP mission and had to establish procedures, such as where to source funding, as it went along. EULEX did not face these

difficulties but was set back because of the Ahtisaari plan unexpected failure to pass through the UNSC, which caused issues for implementing the mandate. Both missions were only partially efficient, because they were unable to achieve their mandates in the required time. EUPM's mandate was extended a number of times, while EULEX is still on-going, and still many are concerned it has given up its executive functions too early. EULEX also has been the most expensive CSDP mission to date, with over one billion euros invested into the mission. Considering its only limited success, and the on-going corruption and crime in Kosovo, it arguably has failed to be cost-effective. EUPM had a much smaller budget than EULEX, and while it had a number of organizational issues, according to local perceptions, it at least appeared to use its resources more wisely than the UN mission which preceded it so could be considered partially successful in cost-effectiveness. Overall, considering the amount of resources and time invested in these two missions, and their limited achievements, the internal appropriateness of the way they carried out their mandates is questionable.

However, it is perhaps unrealistic to expect international interventions to run smoothly. CSDP missions appear to have been an appropriate policy tool to the peacebuilding challenges in Kosovo and BiH to a limited extent. Primarily, their usefulness lies in the more technical aspects of their mandates, but it is clear that they did not have sufficient scope for achieving long-term peacebuilding in Kosovo and BiH. Overall, as other researchers have found, the two missions can be said to have had limited success, and reflected the EU's limited role as a peacebuilder.

## **5.2. Time for a new approach?**

A number of scholars maintain that European integration is the EU's most effective tool for stabilization in the Western Balkans; the prospect of European Union membership has spearheaded a number of reforms and induced the leadership in the region to resolve long-standing disputes (Fakiolas and Tzifikas 2017; Petrovic 2013; Tzifikas 2008). However, as Bieber notes, conditionality has not had a direct role in the Kosovo state-building process, as the opposition to Kosovo's recognition has meant it had no prospects to join the EU as an independent state in the near-future (2011). The prospect of further European integration and even EU membership has still played an important role in the EU's soft-power approach to

Kosovo. In one survey that asked Kosovar citizens "how important is it for Kosovo to strengthen ties with the EU?", over 80% answered either that it was 'very important' or 'somewhat important', with increasingly more saying "very important" from 2014, after six years of EULEX (Cucchi 2017, p. 7). A further 23% of respondents said they would benefit a lot from Kosovo joining the EU , and an additional 50% said that they would benefit "somewhat benefit", suggesting that the majority of Kosovars view EU from either a neutral or positive light (Ibid, p. 7).

While the former-Yugoslavia countries are now relatively peaceful, in no small part thanks to the prospect of EU integration, there is still much to be desired in the level of state-building and democracy, despite international efforts. The political and financial commitment to EUPM BiH and EULEX Kosovo reflects on the fact that the EU is more dedicated to peacebuilding closer to home, particularly in potential future candidate countries. Many of the problems in EULEX and EUPM are caused by the unique constitutional and social challenges in Kosovo and Bosnia. However, there are some common lessons for other missions as well, particularly in the technical aspects of the mission such as staffing, and relationships with local political elites. Considering the high level of crime and systemic corruption, the EU's decision to stop taking on new cases in Kosovo and conclude its civilian mission to Bosnia and Herzegovina is not reassuring. The rule of law is still not fully established or capable of countering organized crime and corruption, and democratic processes are regressing.

It appears that both EUPM and EULEX suffered from ill-defined and perhaps overly ambitious objectives, attempting to apply EU norms to state-building to two territories where the very nature of the state is in question. As discussed in chapter three, EUPM's mandate was tasked with raising BiH police institutions to meet European and international standards, yet at the same time it had to work in an constitutional context that was entirely alien to EU member states; the challenge of navigating three different ethnic groups in a country that is run by two separate political entities. Similarly EULEX's mandate tasked the mission with institution building but did not reckon on Kosovo's contested state-hood status which posed a number of challenges to building rule of law structures. Part of the reasons why this happened could be perhaps be

explained by the EU's liberal peacebuilding and normative power approach to the CSDP missions. Taking a constructivist perspective, it appears that the EU did not adequately account for Bosnia and Herzegovina and Kosovo's political and cultural differences to the EU. In BiH, the EU had difficulty centralizing police reforms because of the deeply divided nature of its governance structures, and an unwillingness by leaders in the two entities to give up their independence. For the case of EULEX, the EU's inability to come to a consensus on Kosovo's statehood status led to a rather confused and weakened mandate. In the EU's attempt to establish its institutional norms on Kosovo and BiH, it perhaps failed to adequately account for or even willfully ignored the desires of local actors. Indeed, some of the state-hood problems in Kosovo and BiH are the direct result of international intervention and liberal peacebuilding. As discussed in chapter one, the constitutional makeup of BiH was established through the Dayton Agreement, an initiative largely led by the U.S. and legitimized through the United Nations. Kosovo's contested state-hood status and the debate around it has also largely taken shape through international institutions. The Ahtisaari plan failed because it did not seek Serbia's agreement for Kosovo's independence, which resulted in Russia's veto of the UNSC resolution on the basis of state sovereignty concerns. To this day, the international community is divided over Kosovo's status because of the precedent it would set in international law. Hence, some of the issues toward stabilisation and long-term peacebuilding in the Western Balkans are rooted in the way the initial conflicts were resolved, and the agreements that were led by the international community and international institutions.

### 5.3. Conclusion

EUPM BiH and EULEX Kosovo both began with confused mandates and concluded with mixed outcomes. This thesis evaluated their success on the basis of four criteria: internal goal attainment and appropriateness, and external goal attainment and appropriateness, building on Rodt's model for evaluating CSDP success. In the final analysis, it was found that they both had a mixed level of success and a number of similarities emerged across the two missions. Both missions fared better on technical goals but failed to have a significant lasting effect on peacebuilding outcomes such as stabilizing democracy and strengthening rule of law institutions to counter corruption and organized crime. Liberal peacebuilding and normative



power theory seemed to explain why the mission's mandates appeared so unsuitable to its end goals: the EU pushed its norms without considering the wider constitutional and political cultures in BiH and Kosovo which posed major challenges to institution building. In BiH, the EU ignored the fact that local political entities did not wish to centralise the police forces for fear of losing their semi-independent status. In Kosovo, the EU pushed for state-building in a country with contested state-hood status, and did not make strong enough efforts to find a solution both Serbian and Kosovar authorities would accept. Finally, CSDP proved to be a tool that is not adequate to addressing the wider peacebuilding challenges in Kosovo and BiH. Other policies, such as focusing on the enlargement strategy to the Western Balkans, may have greater effect.

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